

Testimony of Mr. Peter Lyskowski
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Before the Energy and Commerce Committee
Subcommittee on Oversight and Investigations

“Internet Data Brokers and Pretexting: Who has Access to Your Private Records?”

June 22, 2006

The State of Missouri's response to the sale of cell phone records and personal identifying information on the internet:

I. Missouri's Investigations and Litigation

The emergence of new technologies that increase efficiency and ease of use of basic services has allowed Missourians - like all Americans - to participate in an information revolution. And while the dramatic changes we have seen in recent years have in many ways made our lives easier, they have also provided new ways for wrongdoers to take advantage of our reliance on these technologies. The safeguards provided by face-to-face interaction have been replaced online by a host of authentication measures. No doubt most of these measures are effective in securing consumer's information. But law enforcement officials at every level throughout history know no security system is 100% effective, and thieves have adapted so that they can operate in the information age.

We investigate and prosecute, both civilly and criminally, those who seek to endanger, defraud, and exploit Missouri citizens. Investigators and attorneys in our office are constantly on the lookout for the latest methods and practices employed by those trying to make money by taking advantage of Missourians. This is especially true when it comes to the theft of consumers' private information which, in the hands of the wrong person, can be put to a number of nefarious uses.

Recently, we began investigating the practice of selling people's cell phone records over the internet. We discovered that numerous web sites advertised that by

simply providing a phone number and a fee, someone could obtain the account's originating address as well as a list of calls placed from and received at that number in a matter of hours. We quickly took action:

- On January 20 of this year, we filed suit against the operators of locatecell.com, a site which we believe to be perhaps the biggest player in this industry. On February 15, we obtained a court order prohibiting these Defendants from engaging in this practice. This site is currently not operating.
- On February 21, we sued the operators of completeskiptrace.com, and two days later obtained a court order prohibiting the operators from obtaining or selling cell phone records. The offensive portions of completeskiptrace.com are now disabled.
- On March 6, we sued the operators of datatraceusa.com, obtaining a temporary restraining order and then a preliminary injunction against those operators. Datatraceusa.com is no longer operational.
- A week ago, on June 15, a Missouri judge approved an agreement we reached with a Joplin, Missouri man who was operating the web site nainfo.com. He will no longer offer for sale or sell consumers' cell phone records, and that portion of his web site has been disabled.

Our cases in this area are based on Missouri's consumer protection laws, which include a prohibition on the use of practices that are unethical, oppressive, or unscrupulous and pose a risk of or cause substantial harm to consumers. Those laws also prohibit the concealment, suppression, or omission of a material fact in connection with the sale of goods or services. These defendants' conduct violates both of those prohibitions. Additionally, some of these sites actually make the misrepresentation that the information is obtained legally - a statement which is of course totally false and in violation of Missouri law.

We currently have other investigations underway, and will not hesitate to take appropriate action to curb these violations.

II. NAAG Sign-on

On April 28 of this year, we joined with 47 other attorneys general in urging the Federal Communications Commission to require phone carriers to implement additional and stronger safeguards. We signed on because we believe the phone carriers can and should take the necessary steps to put adequate safeguards in place to protect the information they amass on their customers. By most accounts, these records are obtained by thieves through "pretexting" - a practice also referred to as "dialing for dummies" - where individuals actually call the carrier of the number for which they wish to retrieve records and pose as actual customers. These "pretexters" ask for the most recent bill of the customers they're impersonating, and if they fail in providing accurate authentication information, they simply hang up and try again. They bounce from attendant to attendant until they succeed.

We were surprised to discover the ease with which these pretexters are able to obtain very personal and private information. Putting these operators out of business is not a panacea. If carriers act to implement safeguards such as those suggested by state attorneys general, whether voluntarily or under federal mandate, the low hurdles that pretexters now must cross will be replaced by substantial barriers, thus making it far more difficult for them to ply their craft.

Let there be no doubt that the pretexters and those who employ them are the bad actors here; they are the ones we have sued and continue to investigate. But the carriers are uniquely poised to either continue to be part of the problem, or to adopt new measures that allow them to be part of the solution.

III. Federal Proposals

We have confidence that the legal theories underlying our state actions are sound. We would not have brought these cases if that weren't so.

We in state law enforcement always welcome the assistance and support of those at the federal and local level. As long as it does not pre-empt the Missouri statutes we use in pursuing these actors, we would welcome the strengthening of federal law in this area.

IV. Conclusion

We are pleased with the progress we have made in Missouri, and we applaud the work of our colleagues in other states in going after these folks. We will continue to work diligently to protect consumers' privacy when these and other practices occur. And we call on those with the capability to do the same.